IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HONOURBALE SRI JUSTICE N.V.RAMANA

W.P. No. 28117 OF 2005

Dated : 17th March, 2006

Between:

V.K.V.Reddy

Petitioner

AND

The Regional Manager,

A.P. State Road Transport Corporation

Tirupathi and two others

Respondents

THE HONOURBALE SRI JUSTICE N.V.RAMANA

W.P. No. 28117 OF 2005

ORAL ORDER:

The petitioner, who claims to be a physically handicapped person,

filed this writ petition, seeking a direction to the respondents to provide him alternative employment, in view of his certified unfitness for the post of Driver in the Respondent Corporation.

The petitioner, who is a Graduate, was appointed as a Driver in the Respondent Corporation in 1989. While working as Alipiri Depot, Tirupathi, the petitioner was affected with paralysis on the right side of the body and underwent treatment at SV Institute of Medical Sciences, Tirupathi and Nizam's Institute of Medical Sciences, Hyderabad and the hospital authorities recommended the Corporation for entrustment of light duties and the petitioner was discharging light duties. It is stated that due to continuous ill-health, the Medical Officer, APSRTC Dispensary, Tirupathi, recommended for Sedentary work and the third respondent did not allot light duties and directed him to joint as Driver and he made representation to the third respondent, which was not considered. Therefore, the petitioner filed WP No. 12284 of 2005 which was disposed of by this court on 21.6.2005directing the respondents to consider his representation and pass appropriate orders allotting light duties as per the advice of the doctors. But, even after lapse of six months, the respondents have not taken any action allowing him to join duties nor paid salary from May, 2005. In the meanwhile, on the instructions of the Respondents the petitioner appeared before the Senior Medical Officer, APSRTC Hospital, Tarnaka, Hyderabad. Pursuant thereto, the third respondent issued impugned proceedings, whereby it is informed to the petitioner that he is unfit for "A1" category due to mild residual disability and therefore, he was placed under forced leave from 25.9.2005 pending finalization of the case, which according to the petitioner is illegal and contrary to the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995. Aggrieved of the same, the petitioner came up with the instant writ petition.

Counter affidavit is filed by the respondent stating that at the time of appointment the petitioner was VI qualified. It is stated that due to health reasons, the petitioner was allotted light duties from 17.8.2004

to 1.6.2005, but the petitioner absented from duty from 3.6.2005 onwards without any reason and filed W.P. No. 12284 of 2005. The petitioner was advised to appear before the Medical Officer and on the opinion of the Senior Medical Officer, APSRTC Hospital, Tarnaka, since the petitioner was unfit for driver post due to mild residual disability, he was kept under forced leave from 25.9.2005. It is further submitted that the petitioner neither subjected himself to the Medical Board nor preferred any appeal. It is also stated that as per the procedure in vogue, a driver, who is found medically unfit, has to make an application for alternative post if he intends to work in the Corporation, or else, he will be retired from service on medical grounds.

Admittedly, the petitioner has neither preferred any appeal nor has made any application for alternative post, in view of his physical disability. Without resorting to such recourse, the petitioner has straightaway approached this court. This fact is not controverted by the learned counsel for the petitioner. Having regard to this undisputed fact, it is not appropriate for this court, invoking extraordinary jurisdiction under Article 226 of the Constitution of India, to run the administration of the respondent Corporation and encourage the petitioner to approach this court ignoring the alternative remedy. Therefore, the petitioner is directed to approach the respondent Corporation and file an application seeking alternative employment and if such an application is filed, the respondents are directed to consider the same in accordance with law and pass appropriate orders, within a period of eight weeks therefrom. With this direction, the writ petition stands disposed of. No order as to costs.

N.V.RAMANA, J.

March 17, 2006

MAS